



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21422-2025
DECIDED ON: 29.04.2025

DEEPAK YADAV @ GANJA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rana Harjasdeep Singh, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked under Section 483 of BNSS 2023 seeking grant of Regular Bail to the Petitioner in case FIR No.217 dated 16.11.2022 Under Section 379-B (2), 379, 411, 413 Indian Penal Code, registered at Police Station Sadar, District Police Commissionerate, Ludhiana (Annexure P- 1), during the pendency of the trial as the petitioner is in custody since 16.11.2022 and challan has already been filed.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“The Station House Officer Sahib, Police Station: Sadar, Ludhiana, 'Jai Hind' (victory of India). Today, I A.S.I. along with H.C. Parminder Singh 816/LDH, H.C. Jagsir Singh

2131, Constable Gurdeep Singh 4013/LDH and P.H.G. Balwant Singh 29720, on a Government passenger vehicle bearing No. PB-10-FV-5912 ERTIGA, which was being driven by P.H.G. Lovepreet Singh 16654, were present at Lalton Chowk, Ludhiana with regard to - patrolling and checking of suspected/ doubtful persons, then a Special Messenger came there and informed myself A.S.I. in isolation/ separation that Deepak Yadav alias Ganja son of Dashrath Yadav, resident of Street (Gali) No. 4, Near Sarabha School, Anand Vihar, Village Phullanwal, Ludhiana, Amandeep Singh alias Mani son of Raj Singh, resident of Railway Station Road, Ajitwal, District Moga presently resident of Near Sabzi Mandi (Vegetable Market), Cremation Ground Road, Phullanwal, Police Station: Sadar, Ludhiana, Mandeep Singh alias Khandu son of Charanjit Singh, resident of Near Red Rose Public School, Village Phullanwal, Ludhiana, Parvesh Kumar alias Prince son of Dharamveer Singh, resident of Backside D.A.V. School, Anand Vihar, Village Phullanwal, Ludhiana, who by colluding with each other, by flaunting/ brandishing sharp-edged weapons, frightening, are habitual of snatching Motor Cycles and Mobile Phones, against whom many cases have already been registered earlier for the offences of snatching/ thefts. That the aforementioned all the youngsters, at the moment, are standing on the way/ path going to Thakur Colony, Near Liquor/ Wine Shop Wali 'Gali' (Street) in the vacant plot on left side along with the stolen Motorcycles, Mobiles and sharp-edged weapons and are waiting for the customers to sell the said articles to them. If a raid is conducted just now, then all the afore-mentioned youngsters can be apprehended/ captured along with the stolen snatched Motor Cycles and Mobile Phones. The information is solid/concrete and reliable. In this way, by doing so, the offences fulfil the ingredients of Section 379(B), 379, 411, 413 I.P.C. Hence, by scribing/ writing the 'Ruqa' (written message), for the aforementioned offences against Amandeep Singh alias Mani, Mandeep Singh alias Khandu, Deepak Yadav alias Ganja,

Parvesh Kumar alias Prince, has been sent to the Police Station by hand through P.H.G. Balwant Singh 29720. After registering the case, the case number may be intimated/informed. D.C.R. be informed through Wireless. By issuing the Special Reports, the same may be sent to the Officer. I, A.S.I. along with the companion employees, have been proceeding to conduct the raid at the spot/place - disclosed by the Informer.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been nominated in the instant FIR only on the basis of secret information that he had indulged in snatching and selling of stolen articles. He further contends that the petitioner is at parity with co-accused Amandeep Singh @ Mani, who along with other co-accused persons namely Parvesh Kumar @ Prince and Mandip Singh have already been granted the concession of regular bail by this Court vide orders dated 20.09.2023 (Annexure P-2), 12.12.2023 (Annexure P-3) and 26.04.2024 (Annexure P-4) passed in CRM-M-46283-2023, CRM-M-59982-2023 and CRM-M-7219-2024 respectively.

On behalf of the State

On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition on the ground that the petitioner is a habitual offender as he is involved in five other cases.

4. **Analysis**

Be that as it may, considering the custody period undergone by the petitioner i.e. 02 years, 05 months and 09 days added with the facts that the petitioner is at parity with co-accused Amandeep Singh @ Mani, who

along with other co-accused persons namely Parvesh Kumar @ Prince and Mandip Singh have already been granted the concession of regular bail by this Court vide orders dated 20.09.2023 (Annexure P-2), 12.12.2023 (Annexure P-3) and 26.04.2024 (Annexure P-4) passed in CRM-M-46283-2023, CRM-M-59982-2023 and CRM-M-7219-2024 respectively; investigation is complete, wherein after framing of charges on 06.01.2024 out of total 11 prosecution witnesses, none has been examined, which is suffice for this Court to infer that the conclusion of trial shall take considerable time, this Court is of the considering view that detaining the petitioner behind the bars for an indefinite period would serve no purpose.

Reliance can be placed upon the judgment of the Apex Court rendered in “*Dataram versus State of Uttar Pradesh and another*”, 2018(2) *R.C.R. (Criminal) 131*, wherein it has been held that the grant of bail is a general rule and putting persons in jail or in prison or in correction home is an exception. Relevant paras of the said judgment is reproduced as under:-

“2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated

and for longer periods. This does not do any good to our criminal jurisprudence or to our society.

3. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case.

4. While so introspecting, among the factors that need to be considered is whether the accused was arrested during investigations when that person perhaps has the best opportunity to tamper with the evidence or influence witnesses. If the investigating officer does not find it necessary to arrest an accused person during investigations, a strong case should be made out for placing that person in judicial custody after a charge sheet is filed. Similarly, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Surely, if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimised, it would be a factor that a judge would need to consider in an appropriate case. It is also necessary for the judge to consider whether the accused is a first-time offender or has been accused of other offences and if so, the nature of such offences and his or her general conduct. The poverty or the deemed indigent status of an accused is also an extremely important factor and even Parliament has taken notice of it by incorporating an Explanation to section 436 of the Code of Criminal

Procedure, 1973. An equally soft approach to incarceration has been taken by Parliament by inserting section 436A in the Code of Criminal Procedure, 1973.

*5. To put it shortly, a humane attitude is required to be adopted by a judge, while dealing with an application for remanding a suspect or an accused person to police custody or judicial custody. There are several reasons for this including maintaining the dignity of an accused person, howsoever poor that person might be, the requirements of Article 21 of the Constitution and the fact that there is enormous overcrowding in prisons, leading to social and other problems as noticed by this Court in *In Re-Inhuman Conditions in 1382 Prisons, 2017(4) RCR (Criminal) 416: 2017(5) Recent Apex Judgments (R.A.J.) 408 : (2017) 10 SCC 658**

*6. The historical background of the provision for bail has been elaborately and lucidly explained in a recent decision delivered in *Nikesh Tara chand Shah v. Union of India, 2017 (13) SCALE 609* going back to the days of the Magna Carta. In that decision, reference was made to *Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565* in which it is observed that it was held way back in *Nagendra v. King-Emperor, AIR 1924 Calcutta 476* that bail is not to be withheld as a punishment. Reference was also made to *Emperor v. Hutchinson, AIR 1931 Allahabad 356* wherein it was observed that grant of bail is the rule and refusal is the exception. The provision for bail is therefore age-old and the liberal interpretation to the provision for bail is almost a century old, going back to colonial days.*

7. However, we should not be understood to mean that bail should be granted in every case. The grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is

unfettered, it must be exercised judiciously and in a humane manner and compassionately. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.”

Therefore, to elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as is the mandate of the Apex court in “**Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna**”, (1980) 1 SCC 98. Besides this, reference can be drawn upon that pre-conviction period of the under-trials should be as short as possible keeping in view the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “***Baljinder Singh alias Rock vs. State of Punjab***” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to

the rule of denial of bail on account of pendency of other cases/convictions in all probability would land the petitioner in a situation of denial of concession of bail.

5. **RELIEF:**

In view of the discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on him furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

In the afore-said terms, the present petition is hereby allowed.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

29.04.2025

Poonam Negi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No